

**MINUTES FOR THE
MEETING OF THE
BOARD OF LAND AND NATURAL RESOURCES**

DATE: FRIDAY, JUNE 4, 2004
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Chairperson Peter Young called the meeting of the Board of Land and Natural Resources to order at 9:10 a.m. The following were in attendance:

MEMBERS

Mr. Peter Young
Mr. Timothy Johns (arrived at 11:23 a.m.)
Mr. Ted Yamamura

Ms. Lynn McCrory
Ms. Kathryn Inouye
Mr. Gerald DeMello

STAFF

Ms. Dede Mamiya, Land Division
Mr. Dan Quinn, State Parks
Mr. Steve Thompson, DOBOR

Mr. Sam Lemmo, OCCL
Mr. Michael Buck, DOFAW

OTHER

Mr. William Wynhoff, Deputy Attorney General
Mr. Roland Sagum, E-1
Mr. Gordon Carbtrees, J-1
Mr. Ron McGraw, D-11
Mr. Matsumoto, D-2
Mr. Michael Gallagher, D-12
Mr. Carl McAfee, K-2
Mr. Jonathan Shore, K-2
Ms. Susan Miller, C-7

Ms. Wendy Taomoto, K-1
Ms. Linnell Nishioka, D-11
Mr. Fred Lunt, D-7
Mr. Lee Sichtler, D-3
Ms. Wilma Grambusch, C-2
Mr. Don Williams, K-2
Mr. Chuck Burrows, C-7
Mr. Henderson, K-3

{Note: language for deletion is [bracketed], new/added is underlined}

Item A-1: Minutes of May 14, 2004

The Board made the following changes:

Page 2, Item D-6, sixth line

“believed the State[~~d~~] did not have the right to subordinate[~~d~~] the mining rights.”

Page 3

“3. Within the quit[e] claim there shall be a provision to ensure consultations_ with the surrounding community on the wetland restoration project;”

Page 5, second paragraph eight line

“In contrast after extensive research Mr. Lomas [~~has found that~~] stated that pursuant to his research kayak tours have consistently been found to be compatible with wilderness areas.”

Page 6, second paragraph

“Motion made by Member McCrory at 10:00 am and second by Member Inouye to move into Executive Session to discuss legal issues as related to commercial activity in NARS and prohibition of activities and the issue of one kayak operator operating in the area.”

Page 6, Item K-2, second paragraph third sentence

“She informed the Board the [~~Maui~~] Hawaii County Planning Department feels the construction of the rock wall is good and can in the future prevent vehicles from going over the edge.”

Page 7, third paragraph

“That the Board of Land and Natural Resources approve this request to extend the processing period an additional [~~sixty (60)~~] ninety (90) days (to [~~July~~] August 14, 2004) to allow sufficient time to complete the land restoration plan. Should the applicant not be able to comply with the [~~sixty (60)~~] ninety (90) day extension period, the applicant shall submit a time extension request by [~~June~~] July 29, 2004 (to be placed on the BLNR’s [~~July~~] August 9, 2004 agenda). If the applicant misses the deadline, the applicant shall be fined \$2000 per day from August 15, 2004, for not complying with the BLNR’s terms and conditions.”

Page 11 Item E-1 second sentence

“Mr. Quinn made [in] it known a certified letter that included this Board submittal was sent to Ms. Barruga . . .”

Unanimously approved as amended (McCrory/Inouye).

**Item E-1: Approval to Award Kokee Lodge Concession Lease to Kikiaola Realty, LLC
Kokee State Park, Kauai.**

Dan Quinn Administrator of State Parks let it be known the Kokee Lodge Concession presently consists of 12 recreational cabins, a lodge building, a restaurant facility, a ranger station and a workshop building. A recent appraisal indicted the structures were in fair to poor condition with little economic life remaining. The current lessee, Kokee Ventures have been on the property for over 20 years with a minimum monthly rent of \$5,040.00. State Parks implemented a public bid process for a 30 month concession. A termination date of December 31, 2006 will coincide with the 108 recreational residences lease expiration. Based on the bid results, Mr. Quinn recommended the Board accept the Kikiaola Realty, LLC bid and further that the Board approve such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.

Roland Sagum Senior Planning and Development Coordinator at Kikiola Land Company provided the Board with a brochure of the future plans at Waimea Plantation Cottages and the March/April 2004 issue of Hawaii which featured an article on the Faye family and Kikiola Land Company. He spoke of the Company's experience in rental concession as they currently operate the Waimea Plantation Cottages on Kauai.

Unanimously approved as submitted (McCrory/Inouye).

**Item K-1: Conservation District Use Application (CDUA) for Honokohau Water
System Improvements; Department of Water Supply, County of Maui;
Honolua and Honokohau Districts, Maui; TMK: (2) 4-2-01:01 and 4-1-01:09.**

Sam Lemmo Administrator for the Office of Conservation and Coastal Lands briefly went over his submittal. Mr. Lemmo made it known the area of use is a narrow pipeline corridor, which provides well water to homes in Honokohau. On March 10, 2000 the Board approved this submittal but the County never initiated the job therefore they have returned to the Board to resubmit their application. Mr. Lemmo recommended the Board approve this application to construct the Honokohau Water System Improvements subject to the conditions listed in staff's submittal.

Wendy Taomoto from the Department of Water, Maui was present.

Unanimously approved as submitted (Yamamura/DeMello).

**Item J-1: Consent to Subleases, Harbor Lease No. H-83-2, Kona Fuel & Marine, Inc., a
Hawaii corporation, Lessee, by way of assignment of lease from Kona U-
Cart, Inc., to various sublessees, Honokohau Boat Harbor, Kealakehe,
Kailua-Kona, Hawaii, Tax Map Key: (3) 7-04-08.**

Steve Thompson Acting Administrator for the Division of Boating and Ocean Recreation (DOBOR) informed the Board Kona Fuel & Marine Inc., currently has a lease at Honokohau Boat Harbor and they would like to enter into various sublessees pending Board approval. Mr. Thompson made it known one of the requirements of the lease states that the sublessee's business must be marine related. Staff had concerns with regards to Luana Limousine Service, Ltd., Inc who has a dispatch office and parking stall at the harbor. Although the Limousine Service transports customers to the harbor, staff does not feel this is marine related. Mr. Thompson recommended the Board consent to the following subleases: Colleen Ann O'Brien dba the Fish Dock Store, Earl R. Dorman B.E. dba Blue Water Environmental and Research, Kona Coast Skin Diver, Ltd, Inc, Christopher & Christine Rodgers, dba Southern Cross of Kona, The Research Corporation of the University of Hawaii and Big Island Sportsmen's Club LLC.

Gordon Crabtree President of Kona Fuel & Marine spoke in support of Luana Limousine Service, Ltd. He told those present, due to the error of the Attorney General's Office interpretation of his lease he was faced with bankruptcy. He stated ninety days later the Attorney General's Office informed him he was ill served. Mr. Crabtree made it known Luana Limousine Service has been at the harbor for the past two years servicing the harbor due to lack of sufficient modes of transportation. Mr. Crabtree feels the service they are providing is quite valuable. He went on to say that his attorney has informed him the Board has waived its right to terminate the lease of Luana Limousine knowing that they were at the Harbor and doing nothing about it. He went on to tell the Board why he feels the limousine company's activities are maritime related. He asked the Board to allow Luana Limousine Service to continue operation at the Honokohau Harbor.

Motion made at 9:34 a.m. by Member Inouye and second by Member McCrory to move into Executive Session to consult with the Board's attorney on questions and issues relating to the Board's powers, duties, privileges and liabilities with regards to this action per HRS 92-5(4).

Unanimously approved to move into Executive Session.

The meeting reconvened at 9:45 a.m.

The Board amended the Recommendation Section to add the following

- "f. Big Island Sportsmen Club LLC**
- g. Luana Limousine Service, Inc.**

Unanimously approved as amended (DeMello/Yamaura).

Item D-11: Acquisition of Private Lands and Set Aside to Department of Education for the new Ocean Pointe Elementary School, Honouliuli, Ewa, Oahu, TMK: (1) 9-1-12:040 por.

Dede Mamiya Administrator for the Land Division reminded the Board as part of a rezoning issue a condition was added that required Haseko to dedicate to the State a 6 acre school site. Haseko is currently willing to donate an 11.72 acre site, provide infrastructure to the school,

conduct a phase I Environmental Site assessment and Convey the site via a State approved Warranty Deed. Ms. Mamiya made it known funds have been appropriated for the planning, design and construction of the school. Ms. Mamiya recommended the Board authorize the acquisition of the subject private lands and approve and recommend to the Governor the issuance of an executive order setting aside the subject lands.

Member McCrory recused herself

Linnel Nishioka representing Haseko together with its project manager, Ron McGraw was present. Ms. Nishioka told the Board she feels all the environmental issues on this project have been addressed.

Unanimously approved as submitted (Inouye/DeMello).

Item D-7: Consent to Assign of Grant of Easement Identified by Land Office Deed No. 28,156, Kelly M. Vitousek, Trustee, Assignor, to John P. Dooling and Jenny L. Dooling, Assignee, Opu, Makiki, Honolulu, Oahu, TMK: 2-5-19:09 por.

Ms. Mamiya made it known the subject easement will be used for maintenance of the roadway, walkway and a portion of the residence. Ms. Vitousek the current owner has entered into an agreement to sell her property to the assignees and requests consent to assign the subject easement. Currently, the assignor is in compliance with the terms and conditions of the easement document except for the liability insurance. The new owners will provide the required insurance. Ms. Mamiya recommended the Board consent to the assignment of Grant of Easement identified by Land Office Deed No. 28,156.

Fred Lunt agent for Kelly Vitousek confirmed the Doolings are willing to comply with the terms of the easement.

Unanimously approved as submitted (Inouye/McCrory).

Item D-2: Amend Prior Board Action of November 22, 1996 (Agenda Item D-12) for Lease Extension and Consent to Mortgage; and June 13, 1997 (Agenda Item D-21) for Consent to Assign; Rescind Prior Board Action of December 10, 1999 (Agenda Item D-12) for Issuance of Revocable Permit and Public Auction; General Lease No. 4011, Matsuko Matsumoto Revocable Trust, Waimanalo, Oahu, TMK: (1) 4-1-27:04.

Ms. Mamiya communicated that previously there was confusion at the Attorney General's Office regarding the character of use and what kinds of leases can be extended. She went on to say the previous decision that was made by the Attorney General's Office has been overturned and it now allows staff to extend this lease. Currently the applicant has submitted a new mortgage approval letter from Central Pacific Bank, which mirrors the previous Board approval of 1996. Ms. Mamiya recommended the Board amend its prior action of November 22, 1996, June 13, 1997 and December 10, 1999 as listed in the submittal.

Ms. Matsumoto's son told the Board his mom does not have the funds for a cash bond so the bond might have to be a surety bond but he will need to look into it.

The Board amended the Recommendation Section by adding a new paragraph 5 to read as follows:

“5. The performance bond shall be in place within three months.”

Unanimously approved as amended (Inouye/McCrory).

Item D-3: Issuance of Right-of-Entry Permit to Conduct a Field Reconnaissance for a United States Marine Corps Proposed Conditioning Route for Marines and Sailors to pass from Marine Corps Base Kaneohe Bay to Marine Corps Training Area Bellows; Kailua, Koolauloko, Oahu; TMKs: (1) 4-1-013: por 11; 4-2-05: por. 01; 4-2-05: por 06; 4-2-13: por. 05, 10, 38, 43; 4-2-17: por. 20 and 21; 4-4-12: por. 65.

Ms. Mamiya pointed out the right of entry requested crosses over several encumbrances, executive orders and revocable permits. The applicant is required to obtain concurrence from all of the lessees and agencies. Original discussion relating to the project has taken place. Ms. Mamiya recommended the Board authorize the issuance of a right-of-entry to Belt Collins Hawaii covering the subject area.

Lee Sichter of Belt Collins came forward and told the Board the right-of-entry would be issued to his company in order to make the issue of liability really simple and it takes away the burden from the Marine Corp. Mr. Sichter asked the Board to make a change to the applicant requirement, which would allow his company to obtain permission from only the lessees whose land they will traverse.

The Board amended the Applicant Requirement Section to read as follows:

“Obtain concurrence from:

- 1) DLNR – State Parks Division**
- 2) DLNR – Forestry and Wildlife Division**
- 3) ~~[Department of Public Safety]~~ Department of Transportation Highways**

and if needed:

- 4) Department of Public Safety**
- 5) Thomas L. Noa, Sr.**
- 6) Diamond ‘K’ Ranch**
- 7) Joan and Wesley Cash, and Roy and Mary Teves’**

Unanimously approved as amended (Inouye/McCrory).

Item D-12: Sale or Reclaimed (Filled) Land to Michael Gallagher and Ada Murakami, Niu, Honolulu, Oahu, TMK: (1) 3-7-02:08 seaward.

Ms. Mamiya made it known the applicants have requested to purchase the reclaimed land because they can prove the land was reclaimed prior to June 30, 1962. An aerial photo dated 1961 shows the seawall and fill land with mature vegetation. She told everyone since the encroachment was done without proper State Government authorization, staff is imposing a fine of \$500 for the encroachment. Ms. Mamiya recommended the Board find that the sale of the subject-reclaimed land is not prejudicial and authorize the sale of the subject reclaimed land to Michael Gallagher and Ada Murakami covering the subject area.

Michael Gallagher the applicant confirmed that the seawall and land fill were built before 1961. He believes the wall was built in the late 1950's at the high water mark. Mr. Gallagher disclosed at the time he purchased the property no setback disclosure was made to him. He informed the Board he would like to expand his home but before he can do that he must complete a shoreline certification. Mr. Gallagher went on to give information on previous discussions with staff regarding leasing and purchasing the subject land.

Unanimously approved as submitted (Inouye/McCrory).

Item C-2: Appointment and Selection of a Hearing Officer to Conduct Hearings for a Contested Case Hearing and Waiver of Petitioner's Failure to Submit a Written Request for Contested Case Hearing within 10 days of the Public Hearing Docket No. MO-04-09 Petition for Contested Case Hearing Regarding Conservation District Use application for East Molokai Watershed Partnership Fence Extension project, TMKs (2) 5-4-003-026, (2) 5-4-003-001, (2) 5-5-001-013, and (2) 5-5-001-015.

Michael Buck Administrator for the Division of Forestry and Wildlife (DOFAW) indicated a public hearing on the subject conservation district use application was held on March 11, 2004 in Molokai. On March 24, 2004 the department received a petition via facsimile requesting a contested case hearing. Mr. Buck told the Board by designating a hearings officer it will not relinquish the Board's authority to ultimately decide on the matters being contested. Mr. Buck recommended the Board waive the Petitioner's failure to file a written request for a contested case hearing within 10 days of the public hearing, authorize the appointment of a Hearing Officer and delegate the authority for selection of the Hearing Officer to the Chairperson.

The Board questioned at what point after the deadline for submission for a request of a contested case hearing do we not accept the petitioner's request.

Mr. Lemmo told the Board generally the idea is to accept a late request as long as it is not substantially late.

Wilma Kamkana Grambusch came forward to provide testimony. She communicated her request for a contested case hearing might have arrived late as there is only one mailing from Molokai. Ms. Grambusch noted she had every intention to turn in her petition request on time.

She told the Board the reason for her request is she is a native tenant on an awapua'a and she is questioning certain rights. The Board asked Ms. Grambusch if she would consider speaking with the interested parties to see if something can be worked out prior to the initiation of a contested case hearing. Ms. Grambusch agreed she would meet with the interested parties to see if her issues could be resolved.

The Board amended the Recommendation Section as follows:

- 1) **The parties shall meet together and work towards a resolution . If after forty five (45) days a resolution is not achieved the process of a contested case will move forward.**
- 2) **Renumber the remaining items.**

Unanimously approved as amended (Yamamura/DeMello).

Item D-6: Grant of 55-year Term, Non-Exclusive Easement to Elizabeth Grossman Family Trust for Boat Ramp and Seawall Purposes, Kaneohe Bay, Oahu, TMK: 4-3-05:76, seaward.

Ms. Mamiya conveyed this is another issue of seawall encroachment. Having applied for a building permit to repair the seawall the applicant was made aware of an encroachment of 113 square feet onto State Lands. It was also made known there is a rock blanket and sheet piles that need to be removed after the present seawall foundation is reinforced. Staff recommended imposing a fine of \$500 for the encroachment. The applicant has also requested an estimated easement calculation to allow the shoreline certification process to proceed while the easement is being processed. Ms. Mamiya recommended the Board authorize the issuance of a 55-year term, non-exclusive easement, impose of fine of \$500 authorize the Department to accept a deposit for the removal of the rock blanket and sheet piles and a deposit for the estimated easement consideration.

The Board amended the Recommendation Section by:

- 1) **Amending the Title to read**

“Grant of 55-year Term, Non-Exclusive Easement to Elizabeth Grossman Family Trust for Boat Ramp and Seawall Purposes, [~~Kaneohe Bay~~] Lanikai, Oahu, Tax Map Key: 4-3-05:76, seaward.”
- 2) **Amending Recommendation 4 to read**

“Authorize the Department to accept a deposit or bond in the amount of \$26,351.00 from the applicant pursuant to the conditions set forth in the Remarks section above regarding the removal of the rock blanket and sheet piles.”

Unanimously approved as amended (Inouye/McCrory).

Item K-2: Enforcement File No. MO-04-25, John McAfee, Regarding Alleged Unauthorized Construction of a Shoreline Structure (Rock Wall), Tree Removal, and Road/Driveway Building, and an Unauthorized Dwelling, Makolelau, Molokai, TMK: (2) 5-5-1:36 & 38.

Mr. Lemmo let it be known the subject parcel is located 7 miles east of Kaunakakai, Molokai and Makai of Kamehameha Highway. Also located on the parcel is the Panahaha Fish Pond. He indicated there were three major issues in this case: 1) a shoreline structure; 2) Road Construction/ Tree Cutting of approximately 36 trees; and 3) An Existence of an Unauthorized Dwelling. Mr. Lemmo recommended the Board fine Mr. McAfee in violation of HRS, Chapter 183C and HAR, Chapter 13-5 and is subject to the conditions listed in staff's submittal.

Carl McAfee attorney for the landowner acknowledges that the subject violations have occurred and his agreement with staff's recommendations. He questions staff's use of the word "flagrant" in item 2) of staff recommendation. He went on to tell the Board he needs guidance with regards to the removal of some of the rocks. Secondly he made it known his nephew has no intention of applying for an application to keep the unauthorized dwelling and intends on removing the structure.

Don Williams a long time resident of Molokai, a Native Hawaiian and the general contractor for Mr. McAfee testified. He informed the Board the intention of the subject road was to allow the former owner access to the fishpond and that it was not constructed flagrantly. With regards to the tree cutting, Mr. Williams made it known as part of the removal of another dwelling on the land the former owner cut down several trees. As far as the subject rocks they have been there for at least the past five years. Mr. Williams went on to tell the Board of the good Mr. McAfee has been doing in the area and for the residents of Molokai.

Jonathan Shore Policy Analyst for the Office of Hawaiian Affairs (OHA) noted their beneficiaries have concerns with regards to burials within the sand area where the wall was constructed. As part of the conditions placed on the landowner, Mr. Shore would like to include a condition to allow for an OHA representative as well as a qualified archaeologist on to the site to survey the area.

The Board made Mr. Shore aware of a standard State Historic Preservation Division condition with regards to the notification if burials are discovered. They also told Mr. Shore if burials are discovered the issue would be taken up with the Burial Council on which OHA is represented.

The Board amended

- 1) The staff report by striking the word "flagrant and" from the recommendations.**
- 2) Changing Recommendation 3)**

"That Mr. McAfee stall pay all fines (total \$ [~~13,500.00~~] 13,150.00 within thirty (30) days of the date of the Board's action;

3) **The Board also added an additional condition**

“10. Should any human burials, artifacts, or other previously undiscovered cultural remains or deposits be encountered within the project area, work in the immediate area shall cease, and SHPD contacted immediately to determine the appropriate recourse.”

Unanimously approved as amended (Yamamura/McCrory).

Item C-7: Request for Approval to Enter Into a Design Agreement with Army Corps of Engineers for Planning and Design of the Kawainui Marsh Environmental Restoration Project, Kailua, Oahu.

Mr. Buck indicated the subject project will create 70 acres of shallow ponds and mudflats, remove noxious-invasive vegetation on approximately 17 acres, restore riparian habitat along streams, construct a boundary fence, and provide for mowing and removal of predators. The total project is estimated to cost around five million dollars with the Army Corps of Engineers providing 75% of the funding. Mr. Buck pointed out money for the planning and design phase is coming from the Capital Improvement Fund. Mr. Buck recommended the Board approve the Design Agreement between the Department and the Army Corps of Engineers and authorize the Chairperson to execute the agreement prior to June 30, 2004.

Chuck Burrows President of the Aahui Malama I Ka Lokahi a Hawaiian Environmental Organization testified. Mr. Burrows spoke of their organizations efforts to protect conserve and restore the natural and cultural resources of Kawainui Marsh. He went on to give a brief history of their efforts over the last ten years. In closing Mr. Burrow asked the Board for their support to ensure the visionary plans for Kawainui Marsh become a reality.

Susan Miller President of the Kawainui Heritage Foundation told the Board of their long efforts to get to this position. She asked for the Board's support on this project.

Unanimously approved as submitted (Inouye/McCrory).

Item C-4: Request for Approval to Enter into Eight Contracts to Implement Landowner Incentive Program Projects.

Mr. Buck communicated in fiscal year 2002 the U.S. Fish and Wildlife Services established a new federal funding program called the Land owner Incentive Program that is to be initiated by the State. Staff received over thirty applications requesting over two and a half million dollars in funding and since each state could not get more than \$1.5 million staff reviewed each application for applicability to program guidelines and whether the project involved efforts towards protecting or enhancing habitat for species at risk on private lands. Mr. Buck recommended the Board authorize the Chairperson to negotiate and execute contracts subject to the certification of availability of funds by the comptroller and approval as to form by the Attorney General's Office.

Unanimously approved as submitted (McCrory/Inouye).

- Item C-1: Request for Approval to Enter into a 2-year Contract with the Pacific Cooperative Studies Unit, University of Hawaii to Provide Services to Reduce and Mitigate the Take of Endangered and Threatened Seabirds on Kauai.**
- Item C-3: Request for Approval to Enter into a Cooperative Agreement with the University of Hawaii, Pacific Cooperative Studies Unit for Cooperative Management Projects and to Authorize the Chairperson to Negotiate the Annual Direct and Indirect Administrative Cost Rates for Projects.**
- Item C-5: Request for Approval to Enter into a Four-Year Contract with the Pacific Cooperative Studies Unit, University of Hawaii to Provide Services to Coordinate Landowner Assistance Program, Safe Harbor Agreements and Habitat Conservation Plans.**
- Item C-6: Request for Approval to Enter Into a Site Specific Cooperative Management Agreement and 2-Year Contract with Ducks Unlimited to Provide Planning, Design and Construction Management Services for Department and Ducks Unlimited Funded Improvements at Pouhala Marsh.**

Unanimously approved as submitted (Inouye/McCrory).

- Item K-3: Enforcement File No. HA-03-12, Continental Pacific LLC, Regarding Alleged Unauthorized Grading and Grubbing Private Land Located in the State Land Use Conservation, South Hilo, Hawaii; TMK: (3) 2-8-007:001.**

Mr. Lemmo briefed the Board on the violation and he indicated the estimated area graded was about 200 yards along the coastline and a distance of 100 yards inland from the coast. He was unsure why the alleged graded the subject area but did note that the area has since re-vegetated. Mr. Lemmo did point out he felt the act of grading was flagrant as the landowner knew where the Conservation boundary exists. Mr. Lemmo recommended the Board find the landowner in violation of Chapter 183C HRS and Chapter 13-5 HAR and is subject to the fines listed in the submittal.

Mr. Henderson Manager of Continental Pacific told the Board he disagrees with where the Conservation boundary lies. He does not believe the Conservation line lies along the Pali but believes it runs along the road that runs mauka of the Pali. He produced a map and showed the Board where he believes the conservation line falls. Mr. Henderson told the Board if they have any questions as to where the Conservation line exist they should go out to the site and see for themselves. Mr. Henderson went on to produce more maps to support his beliefs.

The Board indicated the Conservation line is a straight line that lies inland of the Pali. Mr. Lemmo pointed out they have a boundary interpretation map signed by Anthony Ching of the Land Use Commission indicating where the Conservation Line exists.

Motion made by Member Johns at 11:38 a.m. and second by Member Inouye to move into Executive Session to consult with the Board's attorney on questions and issues relating to the Board's powers, duties, privileges and liabilities with regards to this action per HRS 92-5(4).

Unanimously approved to go into Executive Session (Johns/Inouye).

The meeting reconvened at 11:50 a.m.

Before rendering a decision Chairperson Young informed Mr. Henderson he has a right to a contested case hearing. Chairperson Young made it known he would need to let it be known that he would like a contested case hearing before the end of the Board meeting and follow up the verbal request with a written request within ten days.

Unanimously approved as submitted (DeMello/Yamamura).

Mr. Henderson requested a Contested Case Hearing.

Item K-4: Request to Extend the Processing Period for an Additional 90-days for Conservation District Use Application HA-3164 for Invasive Species Removal and Pasture Re-Establishment at Uila Ranch, Applicant: Mary Ellen Wong, Volcano, Kau District, Hawaii, TMK: (3) 9-9-001:017.

Chairperson Young recused himself.

Mr. Lemmo indicated the case is in a Contested Case Hearing mode therefore the applicant is requesting an additional 90-day time extension. Mr. Lemmo recommended the Board approve this request to extend the processing period for CDUA HA-3164B and additional 180-days.

Unanimously approved as submitted (DeMello/Johns).

Item D-1: Issuance of Land Patent in Confirmation of Land Commission Award No. 7979 to Pinao, situate at Honalo, District of North Kona, Island of Hawaii, TMK: (3) 7-9-05:10.

Item D-4: Grant of Term, Non-Exclusive Easement together with Immediate Right of Entry to Warner C. Lusardi, Trustee of the Warner C. Lusardi Family Trust dated June 11, 1993, for Seawall, Fill and Concrete Stairs, Alaeloa, Lahaina, Maui, TMK: (2) 4-3-015:052 seaward.

Item D-5: Withdrawal of Lands from Governor's Executive Order No. 2528, Kaneohe Regional Park, City and County of Honolulu, TMK: 4-5-23: 9 & 10 and Governor's Executive Order No. 3504, State Hospital, Department of Health, TMK: 4-5-23: 02 & 15, Kaneohe, Oahu and Conveyance to the City and County of Honolulu for the Keaahala Road Widening Project and State Department of Transportation for Kahekili Highway.

- Item D-8:** Amend Prior Board Actions of April 8, 2004, Agenda Item D-3, Lease of Private Property with Maui Varieties Investments, Inc., on behalf of the Department of Human Services, for File Storage Purposes at Naalehu Town, Kawala, Kau, Hawaii, TMK: (3) 9-5-21:26.
- Item D-9:** Grant of Perpetual, Non-Exclusive Easement to Shirley Jergler, Norma Leite, Wilma Kennedy and Meuiwaiola Alohamanaloa Mokiao for Access and Utility Purposes, Waiohinu, Kau, Hawaii, TMK: (3) 9-5-06: por of 01.
- Item D-10:** Declaration of Intent Regarding Future Use of Lands Underlying Expiring General Lease No. S-3757, Waimanalo, Koolaupoko, Oahu, TMK: 4-1-010:40.
- Item D-13:** Amendment to Prior Board Action of January 26, 1996, (Agenda Item F-12) for Direct Award of a Perpetual Non-Exclusive Roadway Access and Utility Easement to the United States of America, Department of the Navy; Direct Award of a Non-Exclusive Utility Easement to GTE Hawaiian Telephone Company (now Verizon Hawaii Inc.), Hawaiian Electric Company, Inc. (HECO) and Oceanic Cable; State Land situated at Ewa Halawa, Oahu, TMK: 9-9-77:71.
- Item D-14:** Cancel Revocable Permit No. S-4974 and S-7154 to (Mrs.) Eloise K. Oclit and Issuance of Revocable Permits to Fendel Oclit, Kapaa, Kawaihau, Kauai, TMK: (4) 4-5-11:07 & por. 11.

Unanimously approved as submitted (Johns/McCrory).

- Item F-1:** Request for Approval to Enter into a New Contract with the University of Hawaii (UH) for Implementation of a Local Action Strategy to Address Land-Based Pollution Threats to Hawaii's Coral Reefs for the Contract Period: August 2004 Through July 2005 (Year 1 of 3).

Unanimously approved as submitted (McCrory/Johns).

- Item L-1:** Approval for Award of Construction Contract – Job No. J00CB46A, Lahaina Small Boat Harbor, ADA Barrier Removal Project Maui, Hawaii.
- Item L-2:** Certification of Appointment of Soil and Water Conservation District Directors.

Unanimously approved as submitted (Johns/Yamamura).

- Item M-1:** Amendment to Prior Board Action of February 27, 2004, Item M-3 Issuance of a Lease for Office Space, US Federal Aviation Administration, Honolulu International Airport, Oahu, TMK: (1) 1-1-03-58P.

Item M-2: Issuance of an Inconsistent Use Revocable Permit to T. Siniffen and Sons, LLC Kahului Airport, Maui, TMK: (2) 3-8-01-19P.

Unanimously approved as submitted (Johns/DeMello).

There being no further business, Chairperson Young adjourned the meeting at 12:09 p.m. Tapes of the meeting and all written testimony submitted at the meeting is filed in the Chairperson's Office and is available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,

Terry Crowell

Approved for submittal:

PETER T. YOUNG
Chairperson
Department of Land and Natural Resources

